

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF DANIEL     )  
R. CLEGG, Jr. from the decision of the Board of     )  
Equalization of Ada County for tax year 2006.     )

APPEAL NO. 06-A-2119  
FINAL DECISION  
AND ORDER

**RESIDENTIAL PROPERTY APPEAL**

THIS MATTER came on for hearing October 17, 2006, in Boise, Idaho, before Hearing Officer Sandra Tatom. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Appellant Daniel Clegg, Jr. appeared for himself. Chief Deputy Tim Tallman, and Deputy Assessors Patrick Thomason and Dan Curtis appeared for Respondent Ada County. This appeal is taken from a decision of the Ada County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. R7476750010.

**The issue on appeal is the market value and assessment equity of a residential property.**

**The decision of the Ada County Board of Equalization is affirmed in part and modified in part.**

FINDINGS OF FACT

The assessed land value is \$35,000, and the improvements' valuation is \$56,900, totaling \$91,900. Appellant requests the land value be reduced to \$25,000, and the improvements' value be reduced to \$38,800, totaling \$63,800.

Subject property is .30 acres of land in Boise, Idaho with a two bedroom, one bath, 732 square foot single-family dwelling built in 1950.

Appellant claimed subject is assessed higher than surrounding properties in the area.

Appellant presented information from the Ada County website concerning residential characteristics with assessment information on six residences located in subject's immediate neighborhood. Appellant noted the six properties in subject's subdivision are in better condition and generally have more square footage than subject. However, they are assessed considerably lower per square foot than subject. Appellant addressed each property comparing the location, size, age, and assessed values to subject.

| Address                         | Square Feet | Condition   | Year Built             | Assessed Improvement Value | Garage size/<br>Patio size | Price per sq. ft. |
|---------------------------------|-------------|-------------|------------------------|----------------------------|----------------------------|-------------------|
| <b>Subject - 917 Clover Dr.</b> | <b>732</b>  | <b>poor</b> | <b>1950</b>            | <b>\$56,900</b>            | <b>576<br/>576</b>         | <b>77.73</b>      |
| 1003 Clover Dr.                 | 2,958       | Basic       | 1925 - remodel<br>1982 | \$116,666                  | 1,500<br>476               | 39.44             |
| 1030 Clover Dr.                 | 1,440       | Fair        | 1956                   | \$82,284                   | 578<br>0                   | 57.14             |
| 908 Clover Dr.                  | 1,050       | Average     | 1950                   | \$57,716                   | 0<br>0                     | 54.96             |
| 809 Clover Dr.                  | 770         | Very Good   | 1952                   | \$52,246                   | 0<br>330                   | 67.85             |
| 1045 Clithero Dr                | 1,020       | Good        | 1939                   | \$34,300                   | 0<br>0                     | 33.62             |
| 3610 W Moore St.                | 920         | Good        | 1950                   | \$45,137                   | 0<br>0                     | 49.06             |

Appellant requested the land value be reduced to \$25,000, however, no support or discussion was offered to substantiate this figure.

Respondent stated that Market Value is the statutory requirement. Market value is estimated from sales not assessed values. Respondent could not find any sales in subject subdivision, but located comparable sales from other surrounding neighborhoods not in

close proximity.

Respondent submitted three sales to support subject's assessed value and used a sales comparison grid illustrating adjustments made to the comparable sales for differences in time of sale, site location, total square footage, condition of residence, patio, garage, and general purpose building in order to arrive at an estimated market value for subject. The largest adjustments of \$31,300, \$18,300 and \$14,050 were made for site/contributory location. All comparables were rated in better condition than subject and a negative \$10,000 adjustment was made. The adjusted prices ranged from \$98,292 to \$103,922. Subject is assessed at \$91,900.

Respondent also provided a spreadsheet listing vacant land sales to show the adjustment made for land and a plat map of surrounding lots was submitted to demonstrate assessed land values are uniform amongst similar lots.

### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

#### **Market Value**

Respondent offered sales of vacant lots and a plat map of the surrounding area which substantiated the assessed land value. Appellant did not offer support for the requested land value. This Board finds subject's land value equitable and within the indicated price range for market value.

## **Assessment Equity**

Annual indexing is intended to assure all properties continue to be assessed at market value. A comparison of assessments is not a recognized appraisal technique, and does not prove the fair market value of property. However, extreme diversity between the assessed values of like properties may indicate an assessment equity problem exists.

Idaho is a market value state for property tax purposes. Respondent was not aware of any sales in subject neighborhood, and compiled sales from another area to compare to the subject and made adjustments to the sales for differences from subject.

The valuation of taxable property for assessment purposes must reasonably approximate the fair market value of the property in order to effectuate the policy embodied in Idaho Constitution, Article 7, Section 5, i.e. that each taxpayer's property bear the just proportion of the property tax burden. Merris v. Ada County, 100 Idaho 59 at 63, 593 P.2d 394 (1979).

Appellant presented a compelling equity case. Appellant compared the assessed values of several neighboring improvements to the assessed value of the subject improvements. According to the analysis, a comparison of square footage, condition, year of construction and other amenities indicated the assessed value of the subject improvements was excessive in comparison to a large number of other similar and nearby properties.

The requirement that all property be assessed at its actual cash value is secondary to the constitutional mandate of equality of taxation. Where certain property is assessed at a higher valuation than all the other property, the court will enforce the requirement of uniformity by a reduction of the taxes on the property assessed at the higher valuation. Washington County v. First National Bank of Weiser, 35 Idaho 438 at 444, 206 Pac. 1054

(1922).

In looking at the six comparables Appellant submitted, the Board finds that 809 Clover Drive and 3610 W. Moore Street are most comparable to subject. The first comparable is a 770 square foot residence located on subject street, built in 1952, with a 330 square foot patio, and rated by the County in very good condition. The assessed value is \$52,246 or 67.85 per square foot. The second comparable is a 920 square foot residence built in 1950, and rated in good condition. It does not have either a patio or garage, and is assessed for \$45,137 or 49.06 per square foot.

The County had no explanation for the discrepancies. The Assessor did not address Appellants' claim that surrounding properties are assessed lower per square foot than subject.

The Board cannot reasonably affirm the BOE's decision concerning value of the improvements. We find the improvements assessed value should be reduced to more reasonably reflect assessment uniformity between neighboring residences. In considering the assessed values of surrounding properties and primarily the two most similar to subject, we find an assessed value of \$58.46 per square foot to be equitable. The Board will therefore modify the decision of the Board of Equalization reducing the improvements assessment to \$42,789 for a total parcel value of \$77,789.

#### FINAL ORDER

In accordance with the forgoing final decision the Board modifies the decision of the Ada County Board of Equalization reducing the improvements value to \$42,789 for a total assessed value of \$77,789. There is no change to land value.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those

determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

DATED this 28th day of February , 2007.